

HARRISON W., ET AL	*	BEFORE THE
Appellants	*	MARYLAND STATE
v.	*	BOARD OF EDUCATION
BOARD OF EDUCATION OF	*	MSDE-BE-16-16-02815
CARROLL COUNTY	*	
* * * * *	*	
	*	

EXCEPTIONS TO SUMMARY AFFIRMANCE

Donald J. Walsh, Offit Kurman, P.A., and Dawn A. Nee, Law Office of Dawn A. Nee, L.L.C., on behalf of the Appellants, file these Exceptions to the findings of the Administrative Law Judge who summarily affirmed the decision of the Board of Education of Carroll County (CCPS) to close North Carroll High School. Because of the seriousness of a school closure and the impact of such a decision on the students impacted, the Maryland State Board of Education (MSBE) has established a minimum process for local school boards to undertake. As explained in more detail below, in finding summary affirmance appropriate,¹ the ALJ misinterpreted these standards and simply accepted the position of CCPS that its decision was presumptively correct.

Rather than assess whether CCPS' claimed analysis was appropriately undertaken, supported and led to rational conclusions, the ALJ ignored blatant factual disputes and clear inferences demonstrating that CCPS undertook a cursory effort before deciding to close North Carroll High School based on flawed and limited information and irrational conclusions. Contrary to the past decisions of the MSBE, the evidence presented by both CCPS and

¹ The Appellants also file exceptions to the findings of the ALJ that no standing exists for certain of the Appellants, namely, the Towns of Hampstead and Manchester who appeared through their mayors, the North Carroll Recreation Council and the businesses adjacent to North Carroll High School all of which were directly affected by the closures and consolidations. These Appellants incorporate by reference their Responses to CCPS' Motion to Dismiss them as Appellants which show that the ALJ ignored the factual impact to these entities as well as the prior decisions of the MSBE.

Appellants, the ALJ incorrectly found that no genuine dispute existed whether CCPS had faithfully carried out its duties.²

Appellants request that the ALJ's decision finding Summary Affirmance be reversed, and that its Appeal be reset for an appropriate hearing or the MSBE find as a matter of law that the decision to close North Carroll is arbitrary, illegal and/or contrary to sound educational policy.

Standards for School Closing

COMAR 13A.02.09.01 vests CCPS with establishing the procedures to be used in making decisions on school closings, but these procedures

shall ensure, at a minimum, that consideration is given to the impact of the proposed closing on the following factors:

- (1) Student enrollment trends;
- (2) Age or condition of school buildings;
- (3) Transportation;
- (4) Educational programs;
- (5) Racial composition of student body;
- (6) Financial considerations;
- (7) Student relocation;
- (8) Impact on community in geographic attendance area for school proposed to be closed and school, or schools, to which students will be relocating.³

Although COMAR notes that these are the minimum factors which must be considered, CCPS has asserted additional criteria into its analysis which requires it to go beyond the MSBE's minimum factors. CCPS' own Master Facilities Plan imposes a high burden on it before it

² The ALJ was also dismissive and misconstrued the arguments made by Appellants as "conspiratorial" when they were presented to justifiably challenge the credibility of the information presented by CCPS once private motives were uncovered for the closure of North Carroll. See Exhibit 3 to Response to Motion for Summary Affirmance. The article is attached as Exhibit D. When CCPS' Superintendent blatantly discussed his vindication for the construction of Manchester Valley in closing North Carroll, this Board and the ALJ are compelled to take a closer look at the decision to close North Carroll.

³ COMAR requires that any final decision by a local school board regarding closing a school "shall include the rationale for the school closing and address the impact of the proposed closing on the factors set forth" above. COMAR 13A.02.09.01.D.1.

permits a school closure. In addition to concentrating on an “equitable delivery of educational services and/or safety,” “public educational program considerations, the percentage of utilization of a public school building should be considered,” CCPS asserts that any “closing of a public school should not be considered unless the building is not essential to the system-wide provision of educational opportunity.” *See* RMSA Exhibit 8.⁴

In order to assess this “equitable delivery,” it is inherent that CCPS’ analysis of a proposed school closing is evaluated in comparison to similarly situated schools, i.e., the closure of North Carroll and the transfer of its students is considered only by comparison to the status and operations of other high schools in Carroll County. CCPS acknowledged the need for this comparative approach in correspondence it sent to this Board on January 14, 2016 (attached as Exhibit A). In complaining about a visit by one Board member to North Carroll, CCPS stated that “[w]e also question what knowledge could be gained from visiting a single school in our district without visiting all high schools to make comparisons.”

Further, as was explained by CCPS, since its closure decisions were coupled with boundary adjustments, CCPS’ Boundary Adjustment Policy needed to be followed which included required consideration of numerous factors beyond those identified in COMAR.

Likewise, Board Policy and Administrative Regulations JCAA—Boundary Adjustments dictate several factors that the Committee must consider when developing major boundary adjustments. Those factors are:

- Construction of new school(s);
- Capital improvement to school(s);
- Geographic location of eligible students;
- Rated capacity of each school;
- Changing of capacity based on planned use of the school;
- School capacities and enrollment projections;

⁴ Citation to the Response to Motion for Summary Affirmance are identified as “RMSA”; citation to the Motion for Summary Affirmance are “MSA”; and citation to the Decision of Summary Affirmance are noted as “ALJ.”

Subdivision location;
Subdivision multiplier;
Subdivision build out rate;
Desire to keep subdivision together;
Bus riding time and distance;
Non transported areas – maximize;
Demographics of students;
Financial consideration;
Maintenance of contiguous school service area;
Natural or man-made landmarks;
Number of students affected;
Students outside attendance area - out of district;
Relocation of programs;
Providing space for projected growth;
Other criteria, as appropriate.

MSA Exhibit 12 at 4.⁵

If questioned, the decision of CCPS is not considered a final administrative ruling to which the Administrative Procedures Act applies, and it may be appealed to MSBE to ensure that it is made in accordance with State law. The MSBE is tasked with ensuring the local board's decision is not arbitrary, unreasonable, or illegal. COMAR 13A.01.05.05.

- B. A decision may be arbitrary or unreasonable if it is one or more of the following:
- (1) It is contrary to sound educational policy; or
 - (2) A reasoning mind could not have reasonably reached the conclusion the local board or local superintendent reached.
- C. A decision may be illegal if it is one or more of the following:
- (1) Unconstitutional;
 - (2) Exceeds the statutory authority or jurisdiction of the local board;
 - (3) Misconstrues the law;
 - (4) Results from an unlawful procedure;
 - (5) Is an abuse of discretionary powers; or
 - (6) Is affected by any other error of law.

⁵ Despite CCPS' recognition of the applicability of these factors to its decision-making and its identification of its policies' applicability, neither it nor the ALJ referenced it or demonstrated any adherence to its mandate.

MSBE has long held that violation of state regulations rendered a decision illegal and unenforceable. *Concerned Citizens of Seven Oaks v. Bd. Of Educ. Of Anne Arundel Co.*, 7 Op. MSBE 654, n.8 (1997). “Although these cases talked of compliance with rules in terms of meeting the arbitrary and unreasonable standard, failure to comply with rules, regulations or policies is now identified in the State Board regulations as a basis for finding of illegality.” *Id.* Likewise, MSBE has held that a local school board’s violation of its own policies renders its decision illegal and reversible by the MSBE.

A decision of the local Board will not be deemed arbitrary, unreasonable, or illegal as long as the general public, especially those affected by the Board’s proposal, has ample opportunity to provide input and the Board complies with its own rules, regulations, and bylaws. Maryland case law has firmly established that an agency must follow the rules and regulations that it has adopted. The evidence in this case established that the Board did not follow its own rules during the redistricting process, failed to inform relevant parties about the existence of applicable rules which had been ignored as a result of the Board’s silence. As a result its decision must be found illegal under COMAR 13A.01.01.03E.(1)(c).

Id. Finally, although there were past decisions of MSBE which suggested that demonstration of consideration of at least one factor meant the decision was not considered arbitrary or unreasonable, the MSBE now considers the failure to consider any of the other factors an illegal decision. *Concerned Citizens of Seven Oaks v. Bd. Of Educ. Of Anne Arundel Co.*, 7 Op. MSBE 654, n.8 (1997) (“Although these cases talked of compliance with rules in terms of meeting the arbitrary and unreasonable standard, failure to comply with rules, regulations or policies is now identified in the State Board regulations as a basis for finding of illegality.”)

Motion for Summary Affirmance Standards

An order for summary decision is appropriate under COMAR only if a judge finds that there is no genuine dispute as to any material fact and that the moving party is entitled to prevail as a matter of law. In *Karen Mullin, et al. v. Frederick County Board of Education*, MSBE Op. No. 10-34 (2010), it was explained that the OAH’s rules, the rules for the review of school

closure decisions under MSBE and the Maryland Rules of Civil Procedure were all substantively the same.

A motion for summary decision (or affirmance) is the equivalent of a motion for summary judgment. As in a motion for summary decision, in a motion for summary affirmance the moving party must demonstrate that no genuine issues exist as to any material fact. COMAR 28.02.01.12(D). The moving party must also demonstrate that it is entitled to prevail as a matter of law. Because Md. Rule 2-501 and Federal Rule of Civil Procedure 56 set nearly identical standards for summary judgment, the requirements of those rules, as analyzed by appellate courts, are particularly instructive in analyzing the standards for summary decision or affirmance in administrative proceedings.

Importantly, when construing a motion of this nature, the Administrative Law Judge is required to examine the evidence in the light most favorable to the non-moving party.

Opponents to such motions are “aided by the principle that all inferences that can be drawn from the pleadings, affidavits, and admissions on the question of whether there is a dispute as to a material fact must be resolved against the moving party.” *Calvert Neighbors for Sensible Redistricting v. Calvert County Board of Education*, MSBE Op. No. 10-27 (2010) (citing *Honacker v. W.C. & A.N. Miller Development Co.*, 285 Md. 216, 231 (1979)); *General Mtrs. Corp. v. Lahocki*, 286 Md. 714 (1980); *Sharrow v. State Farm Mutual Insurance Company*, 306 Md. 754 (1986).

Thus, consideration of CCPS’ Motion seeking affirmance of its decision involves a three step process. First, the ALJ must determine if the Motion is appropriately supported by facts and evidence which support the conclusions of CCPS. Mere presentation of conclusions is insufficient. Second, construing all inferences in favor of Appellants and finding all disputes in their favor, the ALJ must assess whether CCPS has appropriately carried out its task of considering at least the eight factors noted in COMAR 13A.02.09.01 and meeting its own

policies prior to closing schools.⁶ Finally, the analysis and conclusions of CCPS are measured to see if they are “contrary to sound educational policy,” whether “reasoning mind could not have reasonably reached the conclusion the local board or local superintendent reached,” or the decision “misconstrues the law” or “is affected by any other error of law.” If any material fact is unsupported by evidence, any dispute exists as to any material fact supporting CCPS’ decision, or the analysis and conclusions are unsound, summary affirmance cannot be granted.

Argument

The ALJ’s findings ignored genuine disputes of material fact as to whether CCPS actually examined the COMAR closure factors and those required by CCPS and whether CCPS’ analysis was reasonable and rational. The exceptions noted here are to the entirety of the ALJ’s decision finding summary affirmance. Appellants incorporate by reference their Response to the Motion for Summary Affirmance in whole which demonstrates that Summary Affirmance was not appropriately granted. This Memorandum in Support of the Exceptions is intended to highlight some of the more glaring errors of the Decision finding Summary Affirmance.

As argued before the ALJ, one of the primary reasons for ensuring that this process was followed so carefully was the fact that the three schools on Appeal were the first set of schools to be closed by CCPS.⁷ Like other presentations made by Appellants, the ALJ ignored this fact and

⁶ Although the State does not identify the weight to be given to each of the eight factors, it clearly does not excuse CCPS from considering each of them thoroughly. Similarly, a thorough consideration undertaken by a “reasoning mind” means that CCPS does more than simply find one positive attribute about its decision impacting each factor. It must perform a complete examination of the “good, bad and ugly” impact of its decision to ensure that reasoning minds would not differ on the conclusion.

⁷ The ALJ also misconstrued the inferences stemming from Appellants identification of the discord surrounding the construction of Manchester Valley. Appellants did not “deride the Local Board for building Manchester Valley.” ALJ Decision at 39. Appellants offered this event as evidence of what examinations are necessary and prudent before relocating high school students. More importantly, given CCPS’ current dilemma with projected declining enrollments which it

stated that any concern was based on speculation. “Although the local Board appears to have left a possibility open regarding future plans, there is no evidence of the development of future, more extensive closings or relocations.” Decision at 44. The ALJ’s conclusion can only be reached by ignoring the evidence presented by Appellants and CCPS. In the closure decision which formed the basis for the Appeal, CCPS’ made clear that “[f]or the 2017-2018 school year: The BAC will continue to meet and recommend additional schools to be considered for closing and recommend comprehensive redistricting to balance enrolments.” CCPS at 4.

Appellants also presented evidence that one of the members of CCPS voted against the closures for the same reason.

I have concerns about this peacemeal [sic] approach to solving a comprehensive problem. Without seeing the entire plan for comprehensive school closures and redistricting, I am concerned that our hands become tied in addressing other facility concerns in the near future. It is for this reason that I am voting no to the [Superintendent’s Recommendation].

See RMSA Exhibit 4.

The ALJ’s decision was pockmarked with similar unsupported findings which were contradicted by the evidence presented. Although the ALJ recognized that her task was to determine if “the Local Board reasonably considered each factor, as required by law, and reached a rational conclusion to adopt the Final Plan,” ALJ at 40,⁸ she did this in the absence of any evidence of the actual analysis undertaken by CCPS or by simply finding that any discrepancies whether a full evaluation occurred must always be resolved in favor of CCPS. Contrary to the

claims began years before Manchester Valley was even constructed, ALJ Decision at 9 -10, CCPS’ efforts should be closely scrutinized lest it make another decision which will need to be reevaluated in a few years. No school community should endure such constant change.

⁸ Even in the absence of any presentation of actual evidence by CCPS, the ALJ also found that CCPS “collect[ed] and analyze[d] relevant data,” and that the closure decision was “based on analysis and reasoning, supported the Local Board’s decision.” ALJ at 40.

standards for summary affirmance, these errant conclusions were reached despite evidence presented by Appellants that demonstrated overwhelmingly that there was generally no analysis undertaken by CCPS and it put forth only unsupported conclusions. In the few instances when some analysis was performed, it was flawed, incomplete, contrary to CCPS' and the State's educational policies or inadequate to support the conclusions given meriting the reversal of the ALJ's findings.

I. CCPS and the ALJ failed to evaluate the closure of North Carroll based on the particular situation presented by the school or in comparison to other high schools.

Important for this Appeal, the State and CCPS policy require that the closure factors be considered separately for each school sought to be closed. The regulations specifically refer to the evaluation of the factors for the "*school* closing." Even prior decisions of this Board demonstrate that the closures of schools in a jurisdiction are separately evaluated. CCPS similarly recognized this individual approach when it dictates that its consideration must include "geographic location of eligible students," "school capacities and enrollment projections," "subdivision location," "subdivision multiplier," "subdivision build out rate," "desire to keep subdivision together," "maintenance of contiguous school service area," "number of students affected" and ensuring that it was "providing space for projected growth." CCPS also recognized this need for individualized review in its Memorandum in Support of its Motion for Summary Affirmance, Memo at 5, n.18, yet it offered no defense to the fact that it failed to perform such an analysis for each of the school closings it announced.

Despite CCPS' clear understanding of its obligation to examine each school closure on an individual basis, the ALJ repeated CCPS' mistake and examined the conclusions formulated by CCPS' decision to lump together its consideration of the schools slated for closure. Offering no analysis of each of the State and CCPS factors as applied to each of the individual schools at

issue and in comparison to the other similar schools in Carroll County, the ALJ left no doubt that her decision affirming North Carroll's closure was only justified by condemning it and the population it served for a countywide problem. "[T]he Final Plan encompassed the most reasonable approach to solving the financial predicament of the Carroll County school system" . . . "and analyzed the data to reach a plan to achieve the goal of reducing operational costs in a manner that would only affect 7% of the entire student population." ALJ 42 and 43. Even the 7% conclusion offered by CCPS and accepted by the ALJ is flawed since it focuses only on the student populations in the closed schools and does not account for the populations affected in the schools into which the students are being placed. Upon proper consideration, CCPS' closure of North Carroll High School impacted 18% of the County's total high school population.

Not only was an incorrect legal review created by considering the schools as a group when even CCPS questioned "what knowledge could be gained from visiting a single school in our district without visiting all high schools to make comparisons," the combined review of three proposed school closures irrationally ignored the diverse issues impacting each school. In addition to the explosive growth and addition of over 600 new homes in the area of North Carroll and Manchester Valley, North Carroll is a high school which has extremely different educational and extracurricular needs and community impacts than those presented by a proposed closure of middle and elementary schools.

Added to the educational needs of college bound young men and women, there are important and established extra-curricular activities and transportation needs which high schools have which are distinct from middle and elementary schools and are just as important for the delivery of a sound educational system. CCPS' decision and the ALJ's consideration of the decision to close North Carroll fails to address transportation impacts, impacts to educational

programs, impacts to extracurricular programs and participation, the impact of relocation of over 700 teenagers and made no effort to meaningfully address the impact to either community based on the closing of North Carroll and relocating over 700 teenagers to Manchester Valley.⁹

Beyond the conclusions of CCPS as noted in the Superintendent's Decision, CCPS presented no evidence of a careful and thoughtful analysis and consideration of the relevant factors. In fact, CCPS' Decision which was the *only evidence* presented by it in support of its Motion. This Decision cited only CCPS' conclusions and identified no factual analysis. In finding in CCPS' favor, the ALJ made a leap of faith that CCPS' conclusions were rationally supported by any analysis. Not only was this leap of faith inadequate to support a finding of summary affirmance, the facts presented by Appellants demonstrated that no rational analysis was undertaken and that CCPS only offered conclusions to support its decision without undertaking any effort to see if the conclusions were peculiar to North Carroll or even supported its closure decision.

Equally important, since the ALJ made no review of the factual analysis allegedly undertaken, she could not reasonably conclude that the conclusions were rational or reasoned. Had an appropriate analysis by the ALJ been done, she would easily have found that Appellants' challenges to the rationality of the conclusions of CCPS based on CCPS' own documentation, regulations and admissions easily led to the conclusion that the analysis was never undertaken as alleged and/or that reasoning minds would have disputed its conclusions.

⁹ The fact that CCPS' decision made no substantive changes to defend or support its closure decision even after hearing public comments clearly demonstrates that it performed no substantive analysis of the impact of its decision on the communities affected. Further support for this assertion is even found in CCPS' careful explanation that it "*heard* comments from citizens during the citizen participation portion" of public meetings. Memo at 10-11. This quite accurately explains the limited nature of what CCPS did and how it failed to "consider" the impacts to North Carroll and Manchester Valley's communities.

For example, the ALJ concluded that the “Local Board reasoned that due to the current stretching of staff, more academic opportunities would be created by combining the resources of North Carroll and Manchester Valley.” ALJ at 42. Although CCPS certainly asserted this conclusion in its decision, *no evidence existed that any analysis was undertaken by CCPS* to support this statement. In fact, the evidence presented demonstrated that the Board undertook no analysis of unique educational issues at either North Carroll or Manchester Valley until after the appeals had been filed. Even then, contrary to CCPS’ own assertion that such an analysis is useless without comparing it to the other high schools in Carroll County, CCPS created a chart to only support its conclusions with no countywide comparison. In doing so, CCPS also ignored its own evidence that in the current school year, it has over 300 students enrolled in courses at other high schools in the county.

The ALJ failed to properly review the factual support for the claimed analysis of CCPS and test whether it occurred and whether it led to a reasonable conclusion. The ALJ made serious errors in assuming the analysis was undertaken and that the conclusions were rationally supported based on a thorough analysis. Given the demonstration by Appellants that no analysis existed in many cases or was faulty in others, the ALJ’s decision cannot be affirmed.

II. No dispute exists that CCPS did not perform an analysis consistent with its own regulations.

As noted in CCPS’ own regulations, it is required to review the eight factors stated in COMAR as well as a long litany of other self-imposed considerations in reaching a decision which will involve closures and major boundary adjustments as occurred here. Those considerations include an individual analysis for each school and the “geographic location of eligible students,” “subdivision location,” “subdivision multiplier,” “subdivision build out rate,” “desire to keep subdivision together,” “maintenance of contiguous school service area,” “number

of students affected,” ensuring that it was “providing space for projected growth” and “other considerations, as appropriate.” Despite indicating that these factors must be reviewed, there is no dispute that CCPS did not evaluate any of these criteria and completely rejected the notion of performing any examination of the communities where North Carroll was and into which its displaced students would be sent.

Prior to making its decision to close North Carroll, no effort was made by CCPS to review the peculiar areas serving North Carroll and Manchester Valley, their subdivisions, any of the expected growth in and around these communities or ensuing CCPS was “providing space for projected growth.” Although CCPS’ closure decision and Motion explained that it took into consideration birth rates and migration rates in Carroll County as a whole, CCPS utterly failed to evaluate County planning documents,¹⁰ and evidence compiled from the Towns of Hampstead and Manchester demonstrating that future development between Manchester and Hampstead which showed more than 600 homes were approved to be built or are in the process of approval¹¹ directly skewing the projected enrollment numbers at Manchester Valley. This examination of

¹⁰ This land development information was available to CCPS through the County’s Buildable Land Inventory and was actually provided to CCPS by one concerned taxpayer. See RMSA Exhibit 18. The purpose for Carroll County’s Buildable Land Inventory is to “analyze and estimate where and how much additional development could occur, not necessarily what will occur” and is “*a planning tool for making decisions related to the effectiveness of previously-adopted comprehensive plans and measures that could be taken to implement desired changes.*” See ccgovernments.carr.org/ccg/complanning/BLI/, portions of which are attached as part of RMSA Exhibit 18. For Hampstead and Manchester, this report identified an overwhelming amount of land available for development.

¹¹ None of these developments were considered by CCPS in making its decision. In fact, CCPS made no examination of the development in Hampstead and Manchester. After its decision was made and in an effort to provide post hoc support for its decision and its Motion, CCPS referred to a Hampstead development Community Comprehensive Plan, which is over 6 years old and identified none of this growth. Had CCPS examined the Carroll County Buildable Land Inventory available to it in the County Planning office, it would have identified numerous growth areas in both Manchester and Hampstead.

focused growth was undertaken when CCPS decided to build Manchester Valley to relieve overcrowding at North Carroll. *See* CCPS Northeast Area High Slides attached as Exhibit B. This ignorance of this growth was even contrary to the information in CCPS' Educational Facilities Master Plan which shows that Manchester Valley and North Carroll exist in a "priority funding area" and a "growth area." Proposed Educational Facilities Master Plan 2016-2025 at 4-19 attached hereto as Exhibit C.

Given CCPS' admission that it only evaluated State and Countywide enrollment numbers and not specific impacts to the areas actually served by North Carroll and Manchester Valley, it is painfully obvious to see that CCPS' decision violated its own regulations and procedures, is arbitrary and leads to irrational conclusions. Sadly, the ALJ made no effort to review this evidence or determine if it was considered by CCPS. Had either CCPS or the ALJ reviewed this information, it would have easily swayed CCPS from the decision to consolidate the high schools serving these areas and placing them in an easily predicted overcapacity state.

III. Clear disputes exist whether CCPS thoroughly evaluated each of the eight state factors.

ENROLLMENT TRENDS

COMAR notes that enrollment trends is a factor which needed to be considered prior to considering a school for closure. There is no doubt that this was one of the aspects evaluated by CCPS for its system and for these schools, however, given the complete absence of evidence that CCPS considered the specific enrollment trends in the areas served by North Carroll and Manchester Valley as impacted by the growth in that area of the County, there is no possible means of reaching the conclusion that its analysis was correct or sound. MSBE has previously found that the use of inaccurate enrollment figures results in a bad decision and one which is subject to reversal. *Hall v. Somerset Co. Bd. Of Educ.*, 4 Op. MSBE 628 (1986). When no effort

has been made to demonstrate the accuracy of the enrollment figures being used, it leaves little doubt that the decision cannot be summarily affirmed.

Based on the evidence which was presented by Appellants, it was easy to see that this was one of the most elusive factors for CCPS to evaluate. Review of CCPS' records and the evidence presented to the ALJ demonstrated that CCPS has an ever shifting collection of enrollment data which changed in its records, in the CCPS' Superintendent's statements, differed from CCPS' paid consultants, and was internally inconsistent in the final closure report. In fact the figures which were used to support the Superintendent's Final Closure Decision were not even the actual enrollment figures for the current school year. *See* RMSA Exhibit 9, Appx C noted the enrollment figures for 2015 were only "Projected." This meant that the enrollment figures were more than a year old and were not prepared and supplied consistent with CCPS' own regulations requiring decisions on current enrollment data. RMSA Exhibit 8 at 3-18 and 3-19.

Below is a table summarizing the enrollment projections provided by CCPS over the past several years. *See* RMSA Exhibit 12.

North Carroll											
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Nov, 2010	756	759	765	765	784	773					
Dec, 2011	748	759	759	753	764	746	745				
Dec, 2012	736	749	745	730	739	712	718	713			
Dec, 2013	704	717	726	715	718	702	707	693	671		
Dec, 2014	713	712	714	708	714	705	719	706	702	687	
Sup. Plan	713	712	714	708	714	705	719	706	702	687	
Manchester Valley											
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Nov, 2010	693	711	720	723	746	728					
Dec, 2011	718	733	732	747	774	741	746				
Dec, 2012	757	761	760	750	789	759	798	797			
Dec, 2013	768	765	763	755	775	738	763	771	749		
Dec, 2014	775	748	733	730	737	706	726	714	717	711	
Sup. Plan	775	748	733	730	737	706	726	714	717	711	

Notably, the North Carroll number shown for 2014 did not even match what CCPS or the Superintendent acknowledged elsewhere. RMSA Exhibit 19 (North Carroll “Student Population 780”).¹² The Projection Summary in Section 5 of the Proposed Educational Facilities Master Plan 2016-2025 dated May 11, 2016, even reflects different projections of students than CCPS’ Closure Decision. For 2016 alone, on page 5-1 of the latest projections used by CCPS in its Facilities Master Plan, it projects 162 more high school students than those identified in the Closure Decision. *Compare* to RMSA 9, Appx C at 40. There is no explanation for why these numbers are different beyond the fact that, unlike the closure decision, the Proposed Educational Facilities Master Plan used actual enrollment numbers as of September 30, 2015.

More importantly, the Maryland Department of Planning received and rejected CCPS’ enrollment figures for 2015 as not consistent with CCPS’ reports to the State. MDP found that these projections differed from those provided the State by as much as 604 students in 2020. *See* Letter from MDP to CCPS, 3/22/2016, attached as Exhibit to Proposed Educational Facilities Master Plan 2016-2025 attached as Exhibit C. At a meeting with Carroll County Planning and Zoning, CCPS could not articulate the reason for the difference. Further disputes of fact exist as to accuracy and reliability of the enrollment figures since *both* Superintendent Guthrie and

¹² CCPS also attempted to minimize the impact of the enrollment figures by claiming that some students attended the Carroll County Tech Center. These students are only enrolled in the tech center for half a day and attend Manchester Valley or North Carroll for the remainder of the day.

CCPS' paid consultant, MGT,¹³ noted that enrollment was expected to decline and then grow again after 2017.¹⁴ RMSA Exhibit 13 and 14.

Even accepting this flawed and not current evidence used by CCPS, the evidence presented to the ALJ demonstrated a clear dispute as to what the final enrollment figures were for the projected years at Manchester Valley after North Carroll closures. Given that CCPS was not using current enrollment figures and it failed to consider the growth in Hampstead and Manchester, a genuine dispute exists precluding summary decision that CCPS properly considered enrollment trends.

Even beyond this evidence of the difficulties of CCPS in evaluating its enrollment trends, in seeking to support its Motion for Summary Affirmance, CCPS relied upon the Hampstead Community Comprehensive Plan published in 2010. This Plan commented on the expected growth in the community and discussed the relief the Town would have from school overcrowding based on the building of Manchester Valley. That Plan identified the projected enrollment for both Manchester Valley and North Carroll for a period which is only three years further than projections reported by CCPS in its decision to close North Carroll. These figures state that the combined enrollment of the two schools in 2027 would be 1654 students. MSA Exhibit 45 at 70. This is well above the Stated rated capacity and any reasonable capacity at Manchester Valley, yet the ALJ never questioned what conclusions CCPS reached upon receiving this information.

¹³ In the ALJ's Summary Decision, she acknowledged MGT's past engagement by the Board but made no reference to MGT's specific presentations and recommendations after concluding that both Manchester Valley and North Carroll High Schools were underutilized. In its final presentation, MGT rejected closing either school and recommended keeping the schools intact and redistricting to ensure "a positive effect on programs." RMSA Exhibit 13.

¹⁴ This is also consistent with the planned building which is to occur in and around North Carroll and Manchester Valley.

Citing to no evidence of the actual analysis of enrollment trends, the ALJ only noted that “the Local Board extensively explored and placed great emphasis on student enrollment trends, recognizing the substantial decline in student enrollment and its crucial impact on the economic viability of the school system and the affected schools.” ALJ at 41. Although CCPS explored the difficulties presented by a countywide decline in enrollment, it is irrefutable that it never accurately considered whether the claimed downward trend would exist in the areas served by North Carroll High School and Manchester Valley. Given CCPS’ reliance on the Hampstead Community Comprehensive Plan, a downward conclusion for this area is not possible. Any conclusion that CCPS undertook a thorough and reasonable analysis is based solely upon unsupported conjecture.

These inconsistent enrollment projections provided by CCPS and, allegedly part of its consideration for its decision, create a blatant dispute of fact in the evidence presented as well as the rationality of the conclusions reached by CCPS. How CCPS could condemn this community to return to a state of overcrowded schools is far from rational and reasoned. In addition to these disputes of material facts concerning the enrollment numbers and projections relied upon in reaching the decision to close North Carroll, neither CCPS nor the ALJ explained or defended how this projected overcrowding was consistent with the “equitable delivery of educational programs” or CCPS’ own policies.

By its own admission, after closing North Carroll, Manchester Valley would be above 100% SRC¹⁵ and was considerably higher than all other high schools in Carroll County which

¹⁵ As was admitted by CCPS, its previous boards found capacity and overcrowding to be of such significance, that it built Manchester Valley. *See* attached plans for Manchester Valley identified as Exhibit B. There has been no offered explanation for why this concern no longer exists at CCPS.

averaged only 73% to 83% across the projected period. More importantly, no evidence was presented to rationalize this high capacity for Manchester Valley in light of CCPS' admission that it opted to close New Windsor Middle instead of East Middle School because it would "result in an overall middle school utilization rate of 98%, which was too high for the effective operation of the school and would not allow for any flexibility for unanticipated enrollment changes." RMSA Exhibit 9 at 5; MSA at 14. The obvious inequity of this delivery of education services violates CCPS' policies, is irrational, is against sound educational policy, and has been held improper by the MSBE in the past. *See Kaiser v. Montgomery County Bd. Of Ed.*, 2 Op. MSBE 582 (1982) (State found such inequitable division and overburdening of particular schools is contrary to sound educational policies.)

As noted, before affirming CCPS' challenged closure of North Carroll High School, the ALJ had to reach the conclusion that the closure and consolidation was consistent with sound educational policy. That educational policy is premised on CCPS' definitions and regulations, its past practices as well as the State's findings. In the summer of 2015, MSBE published a study it commissioned in support of the evaluation of state funding which reported on student success based on the size of schools. The MSBE recently tasked its consultants with reporting on a literature review of student achievement, efficiency, and school climate in smaller schools.

These reported findings included the following:

A meta-analysis of studies of small schools (Rochford, 2005) found that size functions primarily as an enabler of improved student outcomes. Small schools that moved the needle forward on student outcomes decreased enrollment as part of a suite of related reform efforts. . .

Researchers have identified several characteristics of smaller schools that may explain their positive effects on student performance. Key among these characteristics is the presence of a supportive school climate. Some smaller schools are found to be more successful at developing personal and informal relationships among school staff, students, and parents than larger schools serving

similar student populations. Such relationships lead to improved student engagement and student social behavior, broader participation in extracurricular activities, heightened teacher satisfaction and collaboration, and increased parent involvement (Lee & Loeb, 2000). These positive effects are even more pronounced for low-income and minority students, who tend to have higher attendance rates and lower dropout rates in smaller schools (Carruthers, 1993). A study in North Carolina specifically identified the positive impact of smaller schools on school climate, leading to recommendations for much smaller school sizes to prioritize school climate, and larger school sizes to prioritize operating efficiency (North Carolina Department of Public Instruction, 1998). . . .

Smaller schools tend to have fewer incidences of negative social behavior than large schools, resulting in greater student engagement and satisfaction, higher attendance rates, and lower dropout rates. . . .

The research related to extracurricular participation (EP) in high school focuses on the correlation between EP and socioeconomic status, academic achievement, self-esteem, and school size. The school size research compares participation at smaller high schools (defined as having enrollments under 800) to participation at larger high schools (defined as having enrollments greater than 1,600). Enrollment size is often associated with other community characteristics that contribute to EP. For example, smaller schools are often located in rural areas, where the high school is the hub of community attention.

Research suggests that students in rural areas feel a greater sense of opportunity, even responsibility, to participate in activities like sports or plays. This results in students participating in multiple activities over the course of the school year. . . .

Surveys of school staff show that smaller schools tend to cultivate better attitudes towards work among school administrators and teachers, leading to greater staff collaboration and more successful school improvement efforts (Cotton, 1996; Klonsky, 2006). The likely causes of this effect include the more favorable school climates and deeper personal relationships found in smaller schools (Cotton, 1996).

See RMSA Exhibit 24. Although more extensive and supported, this echoed CCPS' own recognition in its policies that the optimal size for a high school is 1200 students which fits with CCPS' "School Community Concept" where "each town had its own school because growth in Carroll County centered around the various municipalities." RMSA Exhibit 8 at 13.

Research indicates that smaller schools (1200 or less) provide more personal educational experiences for students. Students in smaller high schools tend to participate in more school activities and are better known by their teachers.

Lower student participation in school activities results in a higher percentage of detached students who are less invested in their school. This alienation also has a negative effect on academic achievement and attendance thus directly affecting the number of potentially unsuccessful students.

Id.

The clear inferences and conclusions, which can be drawn by CCPS' closure of North Carroll combining its high school students in an overcrowded school is that the decision does considerable violence to these fundamental tenets of CCPS' and the State's educational policies. Had they been considered by the ALJ as she and CCPS are required to do and compared them to the rest of the County, it would present more than ample evidence that summary affirmance could not have been granted.

AGE OR CONDITION OF SCHOOL BUILDINGS

There was no evidence presented that the age or condition of North Carroll was such that it needed to be closed. Although it would be impossible to dispute that Manchester Valley was more modern, there was no evidence presented that North Carroll was deteriorating or in need of anything beyond typical maintenance. In the Educational Facilities Master Plan for 2016-2025, it reiterated that after physical and functional assessments, North Carroll was ranked as the highest of all schools built prior to 1980. Proposed Educational Facilities Master Plan 2016-2025, Exhibits, Appendix A. In fact, CCPS actually concluded that the building itself was in "Fair and Efficient" shape consistent with most of the other high schools in Carroll County. *See*

RMSA Exhibit 2.¹⁶ The Closure Decision also identified that North Carroll had one of the lowest ratio of Building and Core Staff costs per student of all Carroll County high schools. RMSA 9 at Appendix I, 64.

There can be no rational argument made that the savings represented by its closure justified its choice over another school or that the need for future maintenance weighed in favor of closing North Carroll High School. Further, given that the increased usage contemplated by shifting students to Manchester Valley would only result in accelerating any maintenance needs at that facility.

TRANSPORTATION AND STUDENT RELOCATION

In one of the more obvious unsupported conclusions in the ALJ's decision, she summarily noted that CCPS considered the Transportation impacts of the closure of North Carroll High School. "The Local Board considered the issues of transportation as to all the three types of schools, including the redesign of bus routes, 'transportation tier' times, distance, and determined that current bus service to the high schools was sufficient; given the relative proximity of the schools, this does not appear to be an unreasonable conclusion." ALJ Decision at 41. This finding by the ALJ is based solely on the conclusions presented by CCPS in its closure decision announcing the closure. There exists no evidence in the record that CCPS ever actually considered the transportation impact of North Carroll's closure.¹⁷ In fact, the notes

¹⁶ It has been discovered that this assessment is not based on the same standards used by the State but is limited to an assessment by CCPS whether there are any planned renovations or modernizations and not as a reflection of the character or utility of the building.

¹⁷ Although general bus projections were provided by CCPS, they were incomplete. Despite taking the time to document the current commutes of students and the distances to their current schools, CCPS intentionally omitted any demonstration of the increase in these commuting times for relocated students in its Decision. *See* RMSA Exhibit 9, Appendices F & G. This absence is glaring and is especially noticeable given the increased public focus and recommendations for later start times for high school students.

discovered from CCPS unequivocally explained that “Transportation was also not considered for this analysis due to the fact that the impact of school closure on ride times is dependent on future BOE decisions.” *See* RMSA Exhibit 2.

The absence of any analysis certainly supports denying summary affirmance. Even more importantly, however, the failure to consider the transportation impact was a marked departure from CCPS’ own acknowledged obligations. In 2006, in anticipation of Manchester Valley being constructed, CCPS undertook a traffic study which projected the traffic conditions in the area around the school through 2009 when Manchester Valley was supposed to be opened. That report demonstrated that the surrounding areas failed and plainly explained its projections were based on “the new Manchester High school [which] will be able to accommodate approximately 1,200 students in a 217,000 square foot building.” *See* RMSA Exhibit 25 at 12. CCPS never performed an analysis for a high school having well over 1400 students as CCPS is now creating. More importantly, CCPS premised its past study on

[a] meeting with the director of transportation for Carroll County Public Schools (CCPS) provided information on future trip distribution for the new high school. The new Manchester High School shall serve the northern area of the school district. . . .

For purposes of this report, CCPS agreed that an estimated 90% of the proposed high school traffic would be coming from and going to the north (along MD 30), 5% from/to the east (along Maple Grove Road), and the remaining 5% from/to the South (along MD 30).

Given the closure of North Carroll which is south of Manchester Valley, coupled with the obvious importance of transportation issues with high schools, the evidence available to CCPS and the ALJ easily supports the disaster of a transportation impact caused by closing North Carroll and sending its students to Manchester Valley. Despite CCPS’ past recognition of an obvious transportation need for teenage drivers, extracurricular activities and teenage

employment issues, CCPS performed no analysis before deciding to close North Carroll and ship all 700 students to Manchester Valley.¹⁸

There is simply no explanation for the blind eye adopted to a simple transportation review by CCPS or the ALJ in affirming the decision to close North Carroll. This Board has already acknowledged that this factor from COMAR includes a review of the safety and suitability of the new routes travelled by students, *Marsh v. Alleghany County Bd. Of Educ.*, MSBE Op. 05-09 (2003), and has reversed local school districts which do not undertake a study of such impacts. CCPS' closure of North Carroll should suffer a similar fate.

We recognize that any regrading and redistricting plan will require busing in Somerset County. Somerset County is a rural community, and in order to effectuate the educational goals of the County Board certain students will have to be bused a great distance – perhaps as far as 18 or 20 miles. That in and of itself does not make the plan arbitrary or unreasonable. Our present concern, however, is that at the time the County Board made its decision, it did not have the correct calculations in regard to student enrollments, school utilization, and busing mileage. As the Hearing Examiner points out, on cross-examination counsel for Appellants pursued the discrepancies and inquired of Dr. Lynch whether accurate data would not have given the Board second thoughts about its decision. Dr. Lynch replied, “I really can’t speak for the Board.” We also do not want to make a decision for the County Board. We believe is [sic] should have the benefit of correct figures before a final decision is made on a redistricting plan that will affect the entire school system.

Samuel W. Hall, et al. v. Somerset County Board of Education, MSBE 628 (1986).

All evidence and inferences easily support the notion that CCPS undertook no analysis of any impact to transportation of its closure decision. Given the conclusion that such an analysis did not occur, or certainly did not occur in any realistic and reasonable fashion, it easily leads to

¹⁸ Even the bussing information offered by CCPS is skewed because it only discussed mileage and makes no reference to additional time due to additional stops during that mileage or traffic accommodations which may need to be made to arrive safely at Manchester Valley.

the conclusion that the CCPS analysis is inconsistent with the law and that its decision and the ALJ's affirmance thereof cannot be affirmed.

EDUCATIONAL PROGRAMS

Just like the absence of any evidence in the record that CCPS reviewed the required transportation factor, it is clear that CCPS never reviewed the educational impact of closing North Carroll. Although there were summary conclusions provided in the closure decision that students at North Carroll and Manchester Valley suffered educational deficiencies due to their smaller student populations, CCPS never undertook any review of those opportunities prior to reaching that conclusion. Finding disputes of fact and inferences in favor of Appellants, they produced numerous documents which demonstrated beyond cavil that CCPS never sought to collect information of educational impact until after the Appeal was filed. Even then, CCPS only pulled information from these two schools rather than pulling information and comparing it to the educational opportunities countywide. Parroting CCPS' own concern for such ad hoc and limited review, Appellants "also question what knowledge could be gained from visiting a single school in our district without visiting all high schools to make comparisons."

Even the information collected by CCPS demonstrated that it was identifying a problem for only 21 students in these two schools who took classes at both schools which was similar to over 300 students countywide who did the same thing. Attempting to close North Carroll to accommodate educational offerings for even these 21 students, or 1% of the student populations in these two schools, cannot be considered rational or reasonable.

Equally important, CCPS' conclusions of educational impacts offered no consideration of its and the State's acknowledged benefits and successes achievable in smaller schools as noted above. Similarly, it is impossible for CCPS or the ALJ to claim CCPS performed a complete

analysis of the educational impact of its closure decision without assessing the educational impact of Manchester Valley's excess capacity. This is especially significant given CCPS' acknowledged cut of eight instructional staff. RMSA Exhibit 10.

FINANCIAL CONSIDERATIONS

Appellants did not challenge the fact that CCPS was facing financial crisis and was looking to save money. There was, however, a genuine dispute of fact as to what actual funds would be saved by specifically closing North Carroll. Discovery revealed that CCPS only sought to determine the average costs of various positions which would be saved for the closure of North Carroll. The funds allocated for these positions were not saved in any fashion because the positions themselves were never filled. CCPS confirmed that no one was actually losing a job even though it was eliminating positions.

Given CCPS' bold statement that teachers were all moving to Manchester Valley, CCPS never explained or identified the specific persons who were being eliminated and evaluated those specific costs, rather it worked on average salaries for the various positions eliminated. Actual savings were not calculated. Similarly, any savings achieved by closing North Carroll were lumped in with the overall savings of the closures of all three schools as justification. No independent assessment was made of the savings of closing North Carroll as compared with closing another high school.

More importantly, the fact that CCPS hid from the public that CCPS intended to use New Windsor for its headquarters, the savings projected by CCPS in its closure decision are inaccurate and cannot be relied upon. *See* RMSA Exhibit 3 and Supplement RMSA. Given the savings which were identified for the cut in all core staff at these buildings and capital improvement savings, the public was clearly intended to be misled into believing that the

buildings were being vacated in their entirety and surrendered to the County. Notwithstanding CCPS' public presentation, it has always been its intention to continue use of at least one of the school buildings which it intended to close. Contrary to COMAR's requirements that "[t]he final decision shall include the rationale for the school closing." COMAR 13A.02.09.01.D.1, CCPS made no mention of this rationale in its public disclosures or decisions.

As noted, CCPS' decision was rationalized and premised on reductions for all core staff at these schools and the avoidance of future capital improvement costs. Nowhere in any of the CCPS' recommendations or in the Superintendent's decision, however, did it mention that these savings would not be achievable given the expected continued use and modernization of one of the buildings into which Central Office was moving. Given the building's continued occupancy, the core staff for maintenance and cleaning would continue as would the capital improvements. Now that it has been revealed of CCPS' intent and purpose for New Windsor, the capital improvement savings projected in the closure decision are slashed by more than 50 percent eliminating the wisdom of this dubious closure plan even further. "This final recommendation will generate \$5,119,463 in operation budget savings prior to any offsets" and "capital cost avoidance reflected in this plan would be \$20,631,000." *See* RMSA Exhibit 9 at 6-7. Those specific capital costs for New Windsor which would continue if the building were occupied were identified as a total cost avoidance of \$11,475,000 for an HVAC System (\$8,652,000) and a roof replacement (\$2,823,000). Now that it is known that CCPS intends to take over and occupy New Windsor Middle, these projected saved capital improvement costs will never be realized.

Third, nowhere in the State or the County procedures for school closures does it permit CCPS to misrepresent its intent let alone consider or be influenced by CCPS' own selfish desires to find a new home for its operations. The notion that CCPS would displace students and upset

communities simply so that it could escape its own struggle to find a new location by October, 2016 creates considerable questions about the primary motivator of CCPS' closure decision. At a bare minimum, knowing that the school board was looking as early as January, 2015 to use one of the closed facilities for its own operations should have been fully disclosed and made known as the basis for the decision. That this intent and factor were not made known taints the decision at its core.

**IMPACT ON COMMUNITY IN GEOGRAPHIC ATTENDANCE AREA
FOR SCHOOL PROPOSED TO BE CLOSED AND
SCHOOL, OR SCHOOLS, TO WHICH STUDENTS WILL BE RELOCATING**

Finally, COMAR had an express requirement that CCPS review the impact its closure decision will have on the community in geographic attendance area for school proposed to be closed and the school, or schools, to which students will be relocating. This examination was to be filtered through CCPS' own acknowledgment of its "School Community Concept" where "each town had its own school because growth in Carroll County centered on the various municipalities." In addition to CCPS' self-imposed requirement that there be a review of subdivisions and geographical locations of schools, CCPS' previous efforts demonstrated an acknowledgement of its obligation to "look at the impact on the communities." MSA Exhibit 11 at 6. Despite these precedents and obligations, there is no dispute that CCPS shirked that responsibility in reaching this decision and did not consider any impact that a decision to close North Carroll and consolidate with Manchester Valley had on either the Hampstead or Manchester communities.

No evidence exists that consideration was made of the specific development in these areas of the potential for anticipated enrollment growth, of the traffic issues, of the adequacy of the facilities or parking or infrastructure, of the concerns of the town mayors or local law

enforcement or of the impact to neighboring businesses. Jonathan O'Neil, Assistant Superintendent of Administration of CCPS explained to a concerned citizen "[t]here are many emails being received about the impact on business in Hampstead and Manchester. I have no way to assess the economic impact scientifically. All I can say is that prior to 2009 for decades there was only one high school that served both areas and there is no measurable impact on business before and after." See RMSA Exhibit 5.

The only defense which CCPS has offered to its absence of review is its belief that its only obligation is to review the educational impact on these communities. This is simply incorrect. As CCPS and the ALJ acknowledge, one of the other eight factors requires an examination of "educational programs." To suggest that the factor expressly requiring an examination of the impact on the communities directly affected by a closure and/or consolidation is only concerned with the educational impact to the community ignores COMAR's clear and unambiguous language and effectively renders this factor duplicative of one of the other eight controlling factors. Nothing suggests that this factor was to be so narrowly construed and doing so would make the factor little more than a repeat of another factor and superfluous which is not permitted.¹⁹ Limiting this factor for consideration to only educational impacts to the community also ignores the obvious benefits of CCPS' traditional "School Community Concept" and the role of schools in the Carroll County's delivery of education to its communities.

More importantly, accepting such a notion is inconsistent with previous decisions of the MSBE where community impacts were required to be considered. For instance, in *Concerned*

¹⁹ It is also because of this errant narrow construction by the ALJ that she made an error in finding no standing for the Towns of Hampstead and Manchester, the identified business owners and the North Carroll Rec Counsel. All were directly affected by either a loss of revenue or a corresponding increased costs because of CCPS' decision. The standing decisions by the ALJ were incorrect under a proper analysis.

Citizens of Seven Oaks, and Mary Rose Gore, et al. v. Board of Education of Anne Arundel

County, MSBE 654 (1997), the Board explained:

A third reason why the decision to move Seven Oaks children to the Meade feeder system is contrary to education policy is that it would effectively bar the students from participating in many extracurricular activities. According to testimony presented at the hearing, non-military children are not permitted to join the recreational sports leagues affiliated with Fort Meade. Similarly, children are not permitted to participate in the Odenton Recreational Council unless they attend school in the Arundel feeder system. Consequently, the children of Seven Oaks whose families are non-military would not be entitled to engage in activities available to other children in the county. *Although not directly related to school, the inability to participate in such activities after school impacts the children's standard of living and is a valid consideration relating to the impact on the community.*

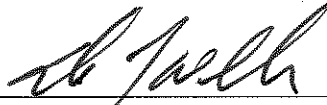
Given CCPS' policies and acknowledged educational facility tenets, there is no excuse for the failure of it to consider the impact its closure and consolidation would have on the communities served by North Carroll High School and Manchester Valley. CCPS' only consideration of the impact on this community was singularly based on Manchester Valley's capacity. No consideration was given to revised commute times, traffic difficulties, parking at the school or the transportation needs for the new influx of over 700 teenagers, of the water and sewer demands of the school, of whether the gym or auditorium could even accommodate over 1000 students, or of the impact to the Hampstead and Manchester surrounding community.

Both CCPS and the ALJ were incorrect in failing to consider this factor prior to making the decision to close North Carroll.

Conclusion

Little doubt exists that CCPS' rushed decision to close schools was not the result of a thoughtful consideration of educational policy or the factors required under State law or by CCPS policy. The incomplete and flawed analysis ignored basic elements and was arbitrary,

unreasonable and illegal. Upon proper consideration, the decision to close North Carroll High School cannot withstand legal scrutiny and must be reversed.²⁰



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²⁰ Appellants also incorporate by reference all facts and arguments raised by other Appellants seeking to stop the closures of schools.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of May, 2016, a copy of the Exceptions to

Summary Affirmance was sent by first-class mail, postage prepaid to:

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